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October 17, 2022

VIA ECF

Honorable Georgette Castner
Honorable Douglas E. Arpert
United States District Court
District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

***Re: Aurinia Pharmaceuticals Inc. v. Sun Pharmaceutical Industries, Inc. et al.,
3:20-cv-19805-GC-DEA***

Dear Judge Castner and Judge Arpert:

Plaintiff Aurinia Pharmaceuticals Inc. (“Aurinia”) respectfully requests that the Court enter (1) a date for the *Markman* hearing; and (2) an amended Scheduling Order in the above-referenced action.

Markman Hearing. The *Markman* Hearing was originally set to occur on or about April 28, 2022, subject to the Court’s availability (D.I. 28). On April 11, 2022, the case was reassigned to the Honorable Judge Georgette Castner (D.I. 71), and the Court thereafter advised the parties that the *Markman* hearing would be rescheduled after the pending dispute between the parties as to whether there should be additional depositions and supplemental claim construction briefing was resolved. This issue has been fully briefed and is ready for the Court’s resolution and setting of a date for the *Markman* hearing (D.I. 66, D.I. 68, D.I. 75).

Amended Scheduling Order. Fact discovery closed on September 30, 2022.¹ Under the Scheduling Order (D.I. 28), the deadline to serve opening expert reports on issues for which a party bears the burden of proof was August 4, 2022. This action is unable to proceed, however, because the parties have submitted competing proposals for the start of expert discovery (D.I. 110, D.I. 111). This dispute centers on whether expert discovery should be set from the date that fact discovery closes as contemplated under the Scheduling Order or stayed until the Court issues a *Markman* Order. Aurinia respectfully requests that the Court order an amended case schedule to resolve this issue and permit the case to proceed without further delay. The proposed case schedule is provided below. The parties agree on the timing of all case schedule events with the exception of opening expert reports.

¹ The Court granted the parties leave to take two depositions after the stipulated September 30, 2022 fact discovery cut-off (D.I. 135, D.I. 137).

EVENT	CURRENT DEADLINE (D.I. 28)	AURINIA'S [PROPOSED] DEADLINE	SUN'S [PROPOSED] DEADLINE
Opening Expert Reports	August 4, 2022	November 29, 2022 (60 days after close of fact discovery) ²	60 days after the last of: all fact discovery disputes are resolved, fact depositions are complete, and a Markman order has issued
Responsive Expert Reports	September 1, 2022	30 days after opening expert reports	
Reply Expert Reports	September 29, 2022	30 days after responsive expert reports	
Close of Expert Discovery	November 3, 2022	4 weeks after reply expert reports	
Dispositive Motions	December 1, 2022	4 weeks after the close of expert discovery	
Oppositions to Dispositive Motions	December 22, 2022	3 weeks after dispositive motions	
Reply to Dispositive Motions	January 12, 2023	3 weeks after responsive briefs on dispositive motions	
Dispositive Motions Hearing	On or about February 9, 2023 subject to Court's availability	Approximately 4 weeks after reply briefs on dispositive motions, subject to Court's availability	
Pretrial Conference	On or about March 2023 subject to Court's availability	Approximately 4 weeks after hearing on dispositive motions, subject to Court's availability	
Trial	On or about March 2023 subject to Court's availability	Approximately 4-6 weeks after pretrial conference, subject to Court's availability	

² Aurinia initially proposed a deadline of one month after close of fact discovery (D.I. 111), but is amenable to a deadline for opening expert reports that is 60 days after the stipulated September 30, 2022 close of fact discovery.

We thank the Court for its consideration in this matter.

Respectfully submitted,

/s/ Lesley McCall Grossberg
Lesley McCall Grossberg

cc: All Counsel of Record (via ECF)